

REMARKS

Applicant replies to the final Office Action mailed on November 24, 2009 within two months. Claims 1-7, 9 and 11-13 were pending in the application and the Examiner rejects claims 1-7, 9 and 11-13. Applicant cancels claim 5 without prejudice to presenting the same or similar claim in this or a related application. Applicant adds new independent claims 16-17. Support for the amendments and the new claims may be found in the originally-filed specification, claims, and figures. No new matter is entered with these amendments and new claims. Applicant respectfully requests reconsideration of this application.

Rejections under 35 U.S.C § 112

The Examiner rejects claims 1-7, 9 and 11-13 under 35 U.S.C § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant amends the claims and submits that these rejections are now rendered moot.

Rejections under 35 U.S.C § 103

The Examiner rejects claims 1 and 15 under 35 U.S.C. § 103(a), as being unpatentable over VanLeeuwen, U.S. Pub. No. 2002/0123949 ("VanLeeuwen") in view of non-patent literature document entitled "Pay Yourself First Still Works" by Jonathan Chevreau ("Chevreau") in view of Saylor et al, U.S. Pub. No. 2004/0111370 ("Saylor") and further in view of Davis, U.S. Pub. No. 2004/0193491 ("Davis"); Claims 2-7 are rejected under 35 U.S.C. § 103(a), as being unpatentable over VanLeeuwen in view of NPL Chevreau in view of Saylor in view of Davis, as applied in Claim 1 above, and further in view of Ogilvie, U.S. Pat. No. 6,631,358 ("Ogilvie"); Claims 9, 11 and 12 are rejected under 35 U.S.C. § 103(a), as being unpatentable over VanLeeuwen in view of NPL Chevreau in view of Saylor in view of Davis, as applied in Claim 1 above, and further in view of Postrel, U.S. Pat. No. 6,594,640 ("Postrel"); Claim 13 is rejected under 35 U.S.C. § 103(a), as being unpatentable over VanLeeuwen in view of NPL Chevreau in view of Saylor in view of Davis, as applied in Claim 1 above, and further in view of Brose, U.S. Pub. No. 2005/0004856 ("Brose"); and Claim 14 is rejected under 35 U.S.C. § 103(a), as being unpatentable over VanLeeuwen in view of NPL Chevreau in view of

Saylors in view of Davis, as applied in Claim 1 above, and further in view of Chandak et al, U.S. Pub. No. 2003/0105689 (“Chandak”). Applicant respectfully disagrees with all of these rejections, but Applicant presents claim amendments in order to clarify the patentable aspects of the claims and to expedite prosecution.

VanLeeuwen discloses a method for “analyzing a user’s finances and providing a plan for debt reduction” (Abstract). The VanLeeuwen method includes acquiring financial data, classifying financial transactions into budget categories, adjusting budgets, listing expense reducing items to a user, receiving user input regarding which expense reducing items to accept. VanLeeuwen discloses determining a budget margin based upon the accepted expense reducing items and paying down user’s debts with the budget margin (Paras. 0008-0009).

Significantly, VanLeeuwen fails to disclose making a payment to savings regardless of debt obligations. Instead, VanLeeuwen is directed toward “determining a financial debt that should be paid down first to reduce aggregate financial debt” and “allow[ing] the plurality of debts to be paid off in a reduced amount of time” (Para. 0010). In fact, **VanLeeuwen’s focus on debt prioritization teaches away from prioritizing savings first.** For instance, VanLeeuwen’s discloses, “[i]n contrast to the prior art, this system uses an effective method to select the order in which debts should be paid off” (Para. 0041) and “debt reduction logic considers the original principal amount, term length of debt, and finally the interest rate on the debt. These factors are combined and preferably measured against the baseline amount of principal owing and allows the appropriate debt to be selected and paid off first” (Para. 0043, emphasis added, internal references removed).

Lahre discloses “a method and system for obtaining customer financial data and producing purchase recommendations which maximize the customer’s cash inventory...” (Abstract). The method also enables the customer to receive reports, including recommendations regarding the purchase recommendations, “without having to do any data manipulation, programming, or calculations.” (Abstract). Additionally, Lahre discloses performing mathematical operations to maximize, or minimize, defined objective functions; e.g. to maximize cash flow.

Significantly, while Lahre discloses maximizing cash flow in order to have funds necessary for a variety of other business objectives, Lahre **fails to disclose making a payment**

to savings **prior to performing the optimization method to maximize cash flow**. Instead, the Lahre method simply optimizes in order to maximize the cash flow available for the business. As such, Lahre merely teaches automating known optimization methods and facilitating efficient distribution of the results to decision makers.

Like Lahre, Hilton focuses on optimizing cash flow or “cash on hand.” Hilton discloses a system that implements a genetic algorithm to “determine a plan for payment of payment obligations in accounts payable.” (Abstract). Hilton discloses considering the timing and amount of payments made to various accounts payable accounts in light of other objectives such as daily cash on hand, tax impacts, late payment penalties, postage fees. (Para. 0007).

Significantly, while Hilton discloses maximizing cash flow in order to have funds necessary for a variety of other business objectives, Hilton **fails to disclose making a payment to savings prior to performing the optimization method to maximize cash flow**. Instead, the Hilton method simply optimizes in order to maximize the cash on hand. As such, Hilton merely applies a known optimization heuristic (genetic algorithm) to the problem of maximizing cash on hand.

None of the other cited references cure the deficiencies of VanLeeuwen, Lahre and Hilton. As such, neither VanLeeuwen, Lahre or Hilton alone, nor in combination with each other or any cited reference, disclose or contemplate at least the following, as recited in claim 1 (emphasis added), and as similarly recited in independent claims 16-17:

determining, by said computer-based system and **in response to said transferring said savings amount, a payment hierarchy based upon said savings amount**, said plurality of penalties and at least one of said payment information, said user savings goal information and said user income information, wherein said payment hierarchy minimizes said plurality of penalties,

Applicant therefore respectfully submits that independent claims 1 and 16-17 are allowable over the cited references.

Dependent claims 2-4, 6-7, 9, and 11-13 depend from independent claim 1, so dependent claims 2-4, 6-7, 9, and 11-13 are allowable over the cited references for the reasons set forth above, in addition to their own unique features.

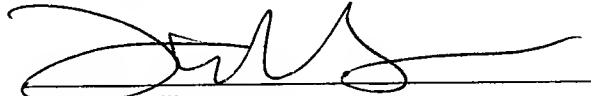
In view of the above remarks, Applicant respectfully submits that all pending claims properly set forth that Applicant regard as his invention and are allowable over the cited

references. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: _____

1/24/10



James M. Hennessee
Reg. No. 62,659

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6516
Fax: 602-382-6070
Email: mhennessee@swlaw.com